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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Brian Kohne

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 BANNER & WITCOFF, LTD.
 1100 13th STREET, N.W.
 SUITE 1200
 WASHINGTON, DC 20005-4051

EXAMINER

HOSSAIN, FARZANA E

ART UNIT	PAPER NUMBER
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2623

MAIL DATE	DELIVERY MODE
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12/20/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/090,206	Applicant(s) KOHNE, BRIAN	
	Examiner Farzana E. Hossain	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/30/2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 August 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/30/2007 has been entered.

Response to Amendment

2. This office action is in response to communications filed 10/30/2007. Claims 1, 8, 16 and 23 are amended. Claims 2-7 and 16-20 are original. Claims 9-15 have been previously presented.
3. Claims 21, 22 and 24 have been previously presented. However, the applicant has the header as original. Original claims are only claims as originally filed with the application, not new claims added to the application in later application that have not been changed.

Response to Arguments

4. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Regarding Claim 1, the applicant argues that there is no reason to modify Reynolds as the passive guides require user to wait until a list of program listings scrolls to display listings for the channel or time and there is no way controlling how quickly or often listings appear (Pages 6-7).

In response to the argument, Reynolds discloses that user can scroll through listings in the program guide and the user can access additional information after selecting a program listing. Reynolds is merely silent on determining a broadcast program is selected for at least a time greater than a predetermined threshold and response to the determining displaying the content. See new rejection.

The applicant argues that similar arguments would be made for the remaining independent claims and all dependent claims. See above argument for response to arguments.

Claim Objections

5. Claims 1-24 are objected to because of the following informalities:
Applicant amended claims with limitations that include: determining that program was selected for a time greater than predetermined threshold and responsive to

the determining displaying the content that is overlapped. The examiner requests the applicant to point to the sections which first discloses that selected content is overlapped by information related to the first broadcast program and second that the information is selected based on selection for a time greater than predetermined threshold that is overlapped. Appropriate correction is required.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reynolds et al (US 2006/0010469 and hereafter referred to as "Reynolds") in view of Rowe et al (US 5,812,123 and hereafter referred to as "Rowe").

Regarding Claims 1, 8 and 15, Reynolds discloses a method, a computer readable medium, a method, a computer readable medium storing instructions that when executed by a processor, cause the process to perform the method (Page 8, paragraphs 0080, 0082, 0084, 0086, and system (Figure 4, Figure 5, Figure 1) comprising:

a first unit to receive input identifying a first broadcasted program (Figure 4, 22, 28, Figures 2a-d, 22, Figure 3a, Figure 3b);

a second unit to select content (Page 7, paragraph 0076, Figure 4, 40), based on the input, to be displayed in a background area of an interactive programming guide (Figures 3a, 3b, Figures 6, 7, 8a, Pages 8-9, paragraphs 0087, 0089-0091).

A fourth unit configured to display the selected content in the background area of the interactive programming guide, wherein the selected content is overlapped by information to the first broadcasted program (Pages 8-9, paragraphs 0087, 0089-0091, Figure 5, 42). Reynolds is silent on a third unit determining that the first broadcasted program is selected for at least a time greater than a predetermined threshold; and a fourth unit, responsive to determining the that the first broadcasted program is selected for at least a time greater than the predetermined threshold, displaying the selected content in the electronic program guide. In analogous art, Rowe discloses a method, a computer readable medium, a method, a computer readable medium that perform operations, and system comprising: a first unit to receive input identifying a first broadcasted program (Figure 1, 32); and a second unit to select content (Figure 1, 40), based on the input, to be displayed in a background area of an interactive programming guide (Figures 2-4, 6, 92). Rowe discloses a third unit determining that the first broadcasted program is selected for at least a time greater than a predetermined threshold (Column 10, lines 35-40, Figure 1, 32, 34); and a fourth unit, responsive to determining the that the first broadcasted program is selected for at least a time greater than the predetermined threshold, displaying the selected content in the electronic program guide (Column 10, lines

18-40, Figure 1, 38, 34). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Reynolds to include a third unit determining that the first broadcasted program is selected for at least a time greater than a predetermined threshold (Column 10, lines 35-40, Figure 1, 32, 34); and a fourth unit, responsive to determining the that the first broadcasted program is selected for at least a time greater than the predetermined threshold, displaying the selected content in the electronic program guide (Column 10, lines 18-40, Figure 1, 38, 34) as taught by Rowe in order to prevent rapid and unnecessary updates of the program display if the user is simply scrolling through the program guide (Column 10, lines 38-40) as disclosed by Rowe.

Regarding Claim 23, Reynolds discloses a method, comprising:

receiving input identifying a first broadcasted program (Figure 4, 22, 28, Figures 2a-d, 22, Figure 3a, Figure 3b, Page 8, paragraph 0090);

determining whether a background content selection feature for a hybrid guide to supplement interactive features of the passive guide is enabled by user indication (Page 8, paragraph 0089),

in response to determining the background selection feature is enabled (Page 8, paragraph 0089), selecting content (Page 7, paragraph 0076, Figure 4, 40), based on the identified first program, to be displayed in a background area of an interactive programming guide (Figures 3a, 3b, Figures 6, 7, 8a, 8b, Pages 8-9, paragraphs 0087, 0089-0091); and

displaying the selected content in the background area of the interactive programming guide, wherein the selected content is overlapped by information to the first broadcasted program (Pages 8-9, paragraphs 0087, 0089-0091, Figure 5, 42). Reynolds is silent on determining that the first broadcasted program is selected for at least a time greater than a predetermined threshold; and responsive to determining that the first broadcasted program is selected for at least a time greater than the predetermined threshold, displaying the selected content in the electronic program guide. In analogous art, Rowe discloses a method, that perform operations, comprising: a first unit to receive input identifying a first broadcasted program (Figure 1, 32); and a second unit to select content (Figure 1, 40), based on the input, to be displayed in a background area of an interactive programming guide (Figures 2-4, 6, 92). Rowe discloses determining that the first broadcasted program is selected for at least a time greater than a predetermined threshold (Column 10, lines 35-40, Figure 1, 32, 34); and responsive to determining the that the first broadcasted program is selected for at least a time greater than the predetermined threshold, displaying the selected content in the electronic program guide (Column 10, lines 18-40, Figure 1, 38, 34). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Reynolds to include determining that the first broadcasted program is selected for at least a time greater than a predetermined threshold (Column 10, lines 35-40, Figure 1, 32, 34); and responsive to determining the that the first broadcasted program is selected for at least a time greater than the predetermined threshold, displaying

the selected content in the electronic program guide (Column 10, lines 18-40, Figure 1, 38, 34) as taught by Rowe in order to prevent rapid and unnecessary updates of the program display if the user is simply scrolling through the program guide (Column 10, lines 38-40) as disclosed by Rowe.

Regarding Claims 2, 9 and 16, Reynolds and Rowe disclose all the limitations of Claims 1, 8 and 15 respectively. Reynolds discloses that the first broadcasted program is selected from a set of broadcasted programs displayed in the interactive programming guide (Page 9, paragraph 0098).

Regarding Claims 3, 10 and 17, Reynolds and Rowe disclose all the limitations of Claims 1, 8 and 15 respectively. Reynolds discloses that the first broadcasted program is selected by a user of the interactive programming guide (Pages 8-9, paragraphs 0088-0090, 0091 0098, Figures 3a, 3b).

Regarding Claims 4, 11 and 18, Reynolds and Rowe disclose all the limitations of Claims 1, 8 and 15 respectively. Reynolds discloses that the content includes an image from the first broadcasted program (Page 9, paragraph 0092).

Regarding Claims 5, 12 and 19, Reynolds and Rowe disclose all the limitations of Claims 1, 8 and 15 respectively. Reynolds discloses the content includes information about a subject associated with the first broadcasted program (Pages 8-9, paragraphs 0088-0090, 0091 0098, Figures 3a, 3b).

Regarding Claims 6, 13 and 20, Reynolds and Rowe disclose all the limitations of Claims 1, 8 and 15 respectively. Reynolds discloses that the

content is selected based on a category of the first broadcasted program (Page 2, paragraph 0014, Figure 8b, Figure 12).

Regarding Claims 7 and 14, Reynolds and Rowe disclose all the limitations of Claims 6 and 13 respectively. Reynolds discloses the content includes information about a subject associated with the category (Figure 8b, Figure 12, Figure 13).

Regarding Claim 21, Reynolds and Rowe disclose all the limitations of Claim 15. Reynolds discloses the selected content is user generated or as the user selects or highlights a program the selected content is displayed based on the highlighting of the program (Pages 8-9, paragraphs 0089-0092, 0098).

Regarding Claim 22, Reynolds and Rowe disclose all the limitations of Claim 1. Reynolds discloses the first broadcasted program corresponds to a sporting event and the selected content including on one or more sporting event scores for the same sport as the sporting event or selecting a football talk show which provides more information including sports scores (Page 9, paragraph 0094-0096).

Regarding Claim 24, Reynolds and Rowe disclose all the limitations of Claim 23. Reynolds disclose determining whether a background selection feature is enabled further comprises determine whether content is available for selection or based on if the user selects hybrid guide for selection of the content of the overlay (Pages 8-9, paragraphs 0087, 0089-0091).

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Farzana E. Hossain whose telephone number is 571-272-5943. The examiner can normally be reached on Monday to Friday 7:00 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FEH
December 14, 2007


CHRIS KELLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600